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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)

**REPLY COMMENTS OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

The Commonwealth of the Northern Mariana Islands ("Commonwealth"),¹ by its attorneys, respectfully submits the following reply comments in the above-captioned matter.²

I. INTRODUCTION

In its Comments, the Commonwealth generally supported the substance and approach of the Federal-State Joint Board on Universal Service's ("Joint Board's") Recommended Decision.³ The Commonwealth applauded the Joint Board's efforts to address the unique and complex issues posed by including insular areas such as the Commonwealth within the national universal service programs. In addition, the Commonwealth proposed the following modifications to the Recommended Decision:

¹ These Reply Comments are filed by the Office of the Governor on behalf of the people of the Commonwealth.

² Common Carrier Bureau Seeks Comment on Universal Service Recommended Decision, Public Notice (Nov. 18, 1996)("Notice").

³ In re Matter of Federal-State Joint Board on Universal Service, Recommended Decision, CC Dkt. No. 96-45, FCC 96J (Nov. 8, 1996)("Recommended Decision").

- Contrary to the Joint Board's recommendation to take no immediate action, the Commission should provide universal service support for toll-free access to 800 numbers, allowing Commonwealth consumers to both order goods and services as well as access information/Internet services without being assessed a "paid access" surcharge. Only in the event that the Commission rejects this position does the Commonwealth alternatively support the Joint Board's recommendation. In addition, the Commonwealth strongly believes that the Commission should require an extension, for an interim period, of the Commonwealth's existing "paid access" arrangements to ensure that Commonwealth consumers remain able to access the U.S. 800 network;
- Due to their closely similar characteristics, the Commission should provide single-line businesses located in insular and rural areas with a level of universal service support equal to that given to residential consumers;
- In the interest of accuracy, the Commission should modify the matrix that the Joint Board has proposed for determining the service discounts available to schools and libraries, so that it will employ the per capita income levels of recipients as an adjusting factor; and
- The Commission should modify the Joint Board's "rural rate" proposal for determining the support to allocate to rural health care providers, in order to account for the Commonwealth's lack of defined "urban" and "rural" areas and to address the rate disparities which exist for intra-island calls in Saipan, Tinian and Rota, and interisland calls between these Commonwealth islands.

II. **SINGLE-LINE BUSINESSES SHOULD RECEIVE UNIVERSAL SERVICE SUPPORT**

In its Comments, Sprint Corporation ("Sprint") opposes the recommendation by the Federal-State Joint Board on Universal Service ("Joint Board") that single-line businesses in rural, insular, and other high cost areas should receive universal service support, asserting that such support is unneeded.⁴ The Commonwealth strongly disagrees with Sprint's arguments.

In its initial Comments, the Commonwealth argued that single-line businesses should not

⁴ See Comments of Sprint Corporation to the Recommended Decision of the Joint Board in CC Dkt. No. 96-45, at 14-15 (Dec. 19, 1996)("Sprint Comments").

only receive universal service support, but should in fact receive an equal level of support as residential consumers due to their strong similarities. As the Commonwealth demonstrated, both residential consumers and small businesses located in rural and insular areas are economically vulnerable to high telecommunications costs precisely because their geographic isolation increases their dependency on services such as telephone calls, facsimiles, and the Internet.⁵ It is also apparent that just like residential consumers, single-line businesses which are located in high-cost areas often require universal service support to be able to afford telecommunications services. As the U.S. Small Business Administration (“USSBA”) pointed out in its Comments, without the aid of universal service programs even larger, multi-line businesses would suffer significant financial distress from the high cost of telecommunications in rural areas.⁶ The Comments of the Commonwealth and the USSBA both demonstrate that unaffordable rates will discourage such businesses’ use of the public network and ultimately depress their subscribership.⁷

Due to their dependence on telecommunications, the availability of universal service may determine the economic viability or survival of many single-line businesses located in rural and

⁵ See Comments of the Commonwealth to the Recommended Decision of the Joint Board in CC Dkt. No. 96-45, at 27-28 (Dec. 19, 1996)(“Commonwealth Comments”)(noting that both residential and business consumers in the Commonwealth face prohibitive telecommunications costs); see also Comments of the Commonwealth to the Notice of Proposed Rulemaking and Order Establishing a Joint Board in CC Dkt. 96-45, at 5-6, 16 (April 12, 1996)(“Initial Commonwealth Comments”)(noting that consumers in the Commonwealth are more dependent upon long distance, interexchange services as a means of contacting the contiguous U.S. due to the prohibitive expense of air travel and the slowness of mail and package services).

⁶ See Letter from Jere W. Glover, USSBA Chief Counsel, to Reed Hundt, FCC Chairman, of December 13, 1996, at 1-2 (“USSBA Comments”).

⁷ See id. at 1-3.

insular areas. The Commonwealth, USSBA, and Rural Telephone Coalition (“RTC”) each demonstrate that if telecommunications are unaffordable to business users, high prices for such services will sap the economic vitality of insular and rural areas.⁸ Such a drain will be experienced both in the form of business failures and of enterprises which are never started up. Ironically, Sprint demonstrates precisely this point when it argues that “it would seem extremely difficult, if not impossible, to run a business without access to basic telephone service.”⁹

It is also clear that the Joint Board’s recommendation that single-line businesses receive universal service support is well founded under Commission precedent. As the Commission found in a previous proceeding, single-line businesses are similar to residential consumers in their lack of bargaining power, purchasing clout or market alternatives.¹⁰ Sprint’s claim that there is “no evidence” demonstrating the need for universal service support to business is therefore without merit.¹¹

In short, as the Commonwealth has demonstrated, not only should single-line businesses receive universal service support, but the level of support they receive should be equivalent to that received by residential users.

⁸ See Commonwealth Comments at 27-28, USSBA Comments at 2 and Comments of the RTC to the Recommended Decision of the Joint Board in CC Dkt. No. 96-45, at 18-19 (Dec. 19, 1996)(“RTC Comments”).

⁹ See Sprint Comments at 14.

¹⁰ See In the Matter of MIS and WATS Market Structure, Memorandum Opinion and Order, 101 FCC 1222, at ¶¶ 39-42 (1995)(ruling that single-line businesses and residential consumers should pay the same subscriber line charge).

¹¹ See Sprint Comments at 14-15.

III. THE COMMISSION SHOULD ADJUST ITS PROPOSED METHOD FOR CALCULATING THE LEVEL OF UNIVERSAL SERVICE SUPPORT TO SCHOOLS AND LIBRARIES

As the Commonwealth demonstrated in its Comments, the Joint Board's proposed matrix for determining the level of universal service support to be provided to eligible schools and libraries uses a flawed proxy and -- as in the Commonwealth's case -- may not accurately reflect the actual needs of the recipients.¹²

As the Commonwealth has previously stated, the matrix needs to be adjusted so that it takes into account per capita income levels, which the Commonwealth believes is an important measure of the subjective affordability of telecommunications services.¹³ The Commonwealth proposes that the simplest, most direct manner by which the Commission may use income level as a corrective factor is by adding the following rule regarding the matrix:

¹² See Commonwealth Comments at 15-18. The proposed "discount matrix" uses participation in the national school lunch program as a proxy for the need for universal service subsidies, and adjusts the raw product of this proxy according to the cost of service in the area served by the school or library. See In re Matter of Federal-State Joint Board on Universal Service, Recommended Decision, CC Dkt. No. 96-45, FCC 96J-3, at ¶ 555 (Nov. 8, 1996). As the Commonwealth demonstrated in its Comments, however, the school lunch program does not perfectly reflect the need for support. Commonwealth Comments at 15-16. For example, even though the Commonwealth has amongst the lowest subscribership rates in the country, has the second lowest per capita income of any U.S. point, and has amongst the highest telecommunications rates in the country, the proposed matrix would not grant the Commonwealth's schools and libraries the maximum amount of support. Id. The Commonwealth therefore asserted that the matrix needed to be reworked so that it accurately reflected the subjective affordability of telecommunications to schools and libraries. Id.

¹³ See Commonwealth Comments at 17.

All schools and libraries located in any area that falls more than 15 percentage points below the national subscribership average will automatically qualify for the maximum level of support available under the matrix.¹⁴

There are multiple advantages to such a modification. Besides fulfilling Section 254(h)(1)(B)'s mandate that the universal service discount provided to schools and libraries be sufficient to "ensure affordable access to and use of such services" (emphasis added),¹⁵ a requirement which clearly refers to the consumer's subjective ability to pay,¹⁶ such a rule would also not disadvantage other low-subscribership regions which may not qualify for the maximum discount under the matrix. Lastly, such a rule is clear and easy to administer, and since its application relies upon available subscribership statistics, it would not require complex or costly monitoring.

IV. THE COMMISSION SHOULD NOT GRANT COMSAT AN EXEMPTION FROM CONTRIBUTING TO UNIVERSAL SERVICE

COMSAT Corporation ("COMSAT") claims that since COMSAT carries only "minimal" interexchange traffic, it therefore does not provide such services "to an extent sufficient" to bring it within Section 254(d) of the Telecommunications Act of 1996 ("1996 Act").¹⁷ COMSAT

¹⁴ The nationwide subscribership average is currently 93.9%. See FCC, Com. Car. Bur., Industry Analysis Div., Telephone Subscribership in the United States (authored by Alexander Belinfante)(Feb. 1996). Given this statistic, under the Commonwealth's proposal any schools and libraries in states or insular areas which have subscribership levels less than 78.9% would automatically qualify for the maximum discount level.

¹⁵ 47 U.S.C. § 254(h)(1)(B).

¹⁶ See Commonwealth Comments at 17.

¹⁷ See Comments of COMSAT to the Recommended Decision of the Joint Board in CC Dkt. No. 96-45, at 2-4 (Dec. 19, 1996). COMSAT admits that it has been authorized by the Commission to provide interexchange services between non-contiguous U.S. points such as the Commonwealth, Guam, and American Samoa, as well as for other limited purposes. Id. at 3.

accordingly argues that it should therefore be exempted from contributing to universal service.¹⁸ The Commonwealth strongly disagrees with COMSAT. Since COMSAT provides interexchange services, the literal terms of Section 254(d) require COMSAT to pay such contributions.¹⁹ The 1996 Act allows no de minimis exemptions of the type COMSAT requests, and the Commission will establish a dangerous -- and statutorily unjustified -- precedent if it permits such an exemption.

**V. THE COMMISSION SHOULD SUPPORT
TOLL-FREE ACCESS TO INTERNET SERVICE PROVIDERS**

In its Comments, the Commonwealth agreed with the Joint Board that eligible schools and libraries should receive universal service support for access to the Internet.²⁰ The Governor of Guam ("Guam") and the Rural Telephone Coalition ("RTC") similarly argue that in order for such Internet services to be affordable, the Commission must provide universal service support for toll-

COMSAT argues, however, that "such minimal involvement in the interstate market" should not be enough to require COMSAT to pay contributions to universal service, and that "before being required to do so, COMSAT should be permitted to provide a full spectrum of telecommunications services" within the U.S. Id. at 4. The Commission should reject this attempt to condition COMSAT's statutory obligations upon a regulatory quid pro quo that is unjustified within the 1996 Act.

¹⁸ Id.

¹⁹ See 47 U.S.C. § 254(d). Specifically, Section 254(d) requires that "[E]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service [emphasis added]." Id.

²⁰ See id. at 36-37.

free dial-up access to the Internet by schools and libraries.²¹

The Commonwealth agrees with Guam and RTC, and believes that in allocating universal service support the Commission should not distinguish between the access and transmission components of Internet costs. As the RTC points out, dial-up access to the Internet is not toll-free in many rural and insular areas of the country, such as those where there is no local access provider.²² Furthermore, as Guam indicates, such dial-up transmission costs are a significant portion of the expense which consumers in rural and insular areas must pay for access to the Internet. The Commonwealth therefore believes that in order to make use of the Internet genuinely “affordable” to schools and libraries in rural and insular areas, the Commission must treat access costs and transmission costs as two sides to the same coin and provide universal service support for both elements.

VI. THE COMMISSION SHOULD NOT PLACE A PER-SUBSCRIPTION CAP ON THE UNIVERSAL SERVICE SUPPORT FOR INTERNET ACCESS

The Commonwealth opposes the proposal by America Online, Inc. (“AOL”) that the Commission place a per-subscription cap on the amount of support available for Internet access by

²¹ See Guam Comments at 5-6 and RTC Comments at 43-44. Specifically, Guam points out that consumers in Guam must currently pay between \$45 to \$60 per month to Internet access providers, a cost which in large part is due to the high cost of the telecommunications links between Guam and the contiguous U.S. See Guam Comments at 5. It should be noted that consumers in the Commonwealth pay similar charges. See Initial Commonwealth Comments at 3-4. Similarly, the RTC indicates that consumers in rural areas often lack an Internet access provider within their calling area, and must make toll calls in order to obtain dial-up access. See RTC Comments at 43-44. The RTC therefore contests the Joint Board’s preliminary decision that it would provide universal service support for Internet access but not for transmission costs. Id.

²² See RTC Comments at 43-44.

schools and libraries.²³ The funding available under such a cap may not adequately support the needs of schools and libraries located in rural and insular areas such as the Commonwealth, due to their high fees and greater need for support.²⁴ Moreover, such an arbitrary cap may well interfere with the 1996 Act's requirement that universal service make such telecommunications services "affordable" to end users.²⁵

**VII. AS RECOMMENDED BY THE JOINT BOARD, INSIDE WIRING
AND FACILITIES SHOULD RECEIVE UNIVERSAL SERVICE SUPPORT**

The Commonwealth opposes Sprint's claim that universal service support should not be provided for installing consumer premises equipment ("CPE") and inside wiring ("ISW") in eligible schools and libraries.²⁶ Such installations, typically undertaken by the local exchange carrier, are a considerable expense for schools and libraries located in rural and insular areas. Left without support, the costs of inside wiring and equipment may prevent such institutions from being able to afford connection to the public switched network. Accordingly, the Commonwealth believes that the Joint Board was correct to equate facilities and access, and accordingly supports the Joint Board's recommendation.

²³ See Comments of AOL to the Recommended Decision of the Joint Board in CC Dkt. No. 96-45, at 6-7 (Dec. 19, 1996).

²⁴ See supra at note 12.

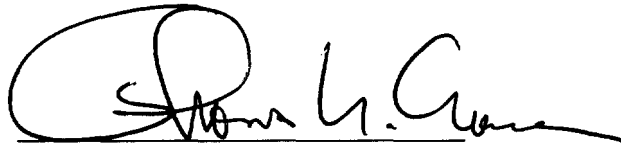
²⁵ See 47 U.S.C. § 254(h)(1)(B)(providing that the universal service support programs grant a discount sufficient "to ensure affordable access to and use of such services" by eligible schools and libraries).

²⁶ See Sprint Comments at 11-14.

VIII. CONCLUSION

As demonstrated above, the Commonwealth urges the Commission to adopt the Joint Board recommendations subject to the revisions and modifications discussed both herein as well as in the Commonwealth's initial Comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas K. Crowe", written over a horizontal line.

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Dated: January 10, 1997

CERTIFICATE OF SERVICE

I, Guled Hersi, serving as secretary to the Law Offices of Thomas K. Crowe, P.C., hereby certify that a copy of the foregoing Reply Comments of the Commonwealth of the Northern Mariana Islands was sent by first class United States mail, postage pre-paid, or by hand delivery where indicated by an asterisk (*), this 10th day of January, 1997, to the following:

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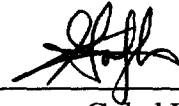
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